

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ITHACA VENTURES k.s. and ITHACA  
DEVELOPMENT, LLC,

Plaintiffs,

v.

NINTENDO OF AMERICA INC. and  
NINTENDO CO., LTD.,

Defendants.

C.A. No. 13-824-GMS

**DECLARATION OF ERICH SPANGENBERG IN SUPPORT OF ITHACA VENTURES  
K.S.'S AND ITHACA DEVELOPMENT, LLC'S OPPOSITION TO DEFENDANTS'  
MOTION TO TRANSFER VENUE TO THE WESTERN DISTRICT OF WASHINGTON**

I, Erich Spangenberg, declare as follows:

1. I am the Manager of Ithaca Development, LLC, one of the plaintiffs in the above-captioned action. I have personal knowledge of the facts set forth herein and if called as a witness, I could and would competently testify to the matters stated herein.

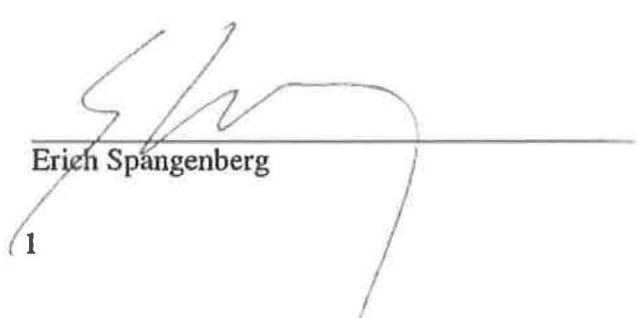
2. Plaintiff Ithaca Development, LLC was formed as of April 22, 2013 as a limited liability company pursuant to the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101 et seq. Attached hereto as Exhibit A is a true and correct copy of the Certificate of Formation.

3. Ithaca Development, LLC was organized in the State of Delaware as the exclusive licensee of one of the patents owned and developed by Ithaca Ventures k.s., with the business objective of licensing this patent.

4. I have reviewed Exhibit 1 to the Declaration of Richard L. Horwitz filed in support of Nintendo of America Inc.'s and Nintendo Co., Ltd.'s Motion to Transfer Venue to the Western District of Washington. The Ithaca Development, LLC entity described in Exhibit 1 is not the same limited liability company formed on April 22, 2013 in Delaware and that is a plaintiff in this action.

5. As reflected in Exhibit 1 to Mr. Horwitz's declaration, a person named Nick Bombach is the manager of the Ithaca Development, LLC that was formed in July 2010 under the laws of the State of Texas. No one by the name of Nick Bombach is or was ever the manager of, or had any affiliation whatsoever with, the Ithaca Development, LLC formed on April 22, 2013 in Delaware and which is a plaintiff in the above-captioned action. Further, the address of the Texas entity, Ithaca Development, LLC, is in Houston; the principal place of business of the Delaware entity, plaintiff Ithaca Development, LLC, is in Dallas.

I declare under penalty of perjury that the foregoing is true and correct. Executed September 30, 2013, at Dallas, Texas.



Erich Spangenberg

**EXHIBIT "A"**

# Delaware

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*The First State*


I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "ITHACA DEVELOPMENT, LLC", FILED IN THIS OFFICE ON THE TWENTY-SECOND DAY OF APRIL, A.D. 2013, AT 2:09 O'CLOCK P.M.

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You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 0379538

DATE: 04-23-13

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 02:17 PM 04/22/2013  
FILED 02:09 PM 04/22/2013  
SRV 130465326 - 5322732 FILE

**CERTIFICATE OF FORMATION**  
**OF**  
**ITHACA DEVELOPMENT, LLC**

This Certificate of Formation is executed as of April 22, 2013, in order to form a limited liability company pursuant to the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101 et seq. (the "Act").

1. The name of the limited liability company is Ithaca Development, LLC (the "Company").

2. The Company's registered office in the State of Delaware is located at 222 Delaware Avenue, 9<sup>th</sup> Floor, Wilmington, New Castle County, Delaware 19801, and its registered agent at that address is The Delaware Corporation Agency, Inc.

IN WITNESS WHEREOF, the undersigned, for the purpose of forming a limited liability company pursuant to the Act, has executed this Certificate of Formation as of the day and year first aforesaid.

  
\_\_\_\_\_  
José L. Hood

Authorized Person

(SEAL)